

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID JACK ROGERS,

Petitioner,

v.

DOUG WADDINGTON,

Respondent.

Case No. C05-5332FDB

REPORT AND  
RECOMMENDATION TO DENY  
APPLICATION TO PROCEED  
*IN FORMA PAUPERIS*

Noted for July 8, 2005

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner is an inmate at the Stafford Creek Corrections Center. Plaintiff paid the court filing fee, but then subsequently filed an application to proceed *in forma pauperis* (Dkt. # 1). Accordingly, because petitioner already has paid the filing fee, the Court should deny the application.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

On May 13, 2005, the Clerk received petitioner's petition, along with the court filing fee. (Dkt. #1). On May 19, 2005, plaintiff filed an application to proceed *in forma pauperis*. (Dkt. #3). Because


1 petitioner already has paid the filing fee, his application to proceed *in forma pauperis* is moot.

2 CONCLUSION

3 Because petitioner has paid the court filing fee, the undersigned recommends that the Court deny  
4 his application to proceed *in forma pauperis*.

5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure ("Fed. R.  
6 Civ. P."), petitioner shall have ten (10) days from service of this Report and Recommendation to file  
7 written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of  
8 those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time  
9 limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **July 8, 2005**, as  
10 noted in the caption.

11 DATED this 14th day of June, 2005.

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15 Karen L. Strombom  
16 United States Magistrate Judge  
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